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## 11 | Proposed Plaintiffs' Co-Lead Counsel

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**PAUL MEOLA**, individually, and on behalf of himself and all others similarly situated,

**Plaintiff.**

vs.

**AXA FINANCIAL, INC.; AXA  
ADVISORS, LLC; AXA EQUITABLE  
LIFE INSURANCE CO.; and DOES 1  
through 10, inclusive,**

## Defendants.

No. C06-04291-JSW

## CLASS ACTION

**STIPULATION AND  
[PROPOSED] PRETRIAL  
ORDER NO. 1**

Date: November 30, 2007

Date: November  
Time: 9:00 a.m.

Date: 9/20/00 am  
Courtroom: 2

Hon. Jeffrey S. White

1           **CARLTON M. LENNON**, individually, and  
2           on behalf of all other members of the general  
3           public similarly situated, **JAMES L.**

4           **THOMPSON**, individually, and on behalf of  
5           all other members of the general public  
6           similarly situated,

7                 Plaintiffs,

8                 vs.

9           **AXA ADVISORS, LLC; AXA**  
10          **NETWORK, LLC**; and DOES 1 through 20,  
11          inclusive,

12                 Defendants.

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13           **ANTHONY BOLEA**, on behalf of himself  
14          and all others similarly situated,

15                 Plaintiff,

16                 vs.

17           **AXA ADVISORS, LLC and AXA**  
18          **EQUITABLE LIFE INSURANCE CO.**,

19                 Defendants.

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20           **HARKANT DHRUV**, on behalf of himself  
21          and all others similarly situated,

22                 Plaintiff,

23                 vs.

24           **AXA EQUITABLE LIFE INSURANCE**  
25          **CO., et al.**

26                 Defendants.

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**No. 07-01858 JSW**

**No. C07-02777 JSW**

**No. C07-04368-JSW**

1           WHEREAS, the above-captioned actions (the “Overtime Actions”) allege  
 2 violations of the FLSA and/or various state labor laws, and such actions involve  
 3 common questions of law and fact;

4           WHEREAS, the parties agree and the Court has determined that formal  
 5 consolidation of the Overtime Actions and organization of Counsel for Plaintiffs is  
 6 appropriate as consistent with the recommendations for the *Manual for Complex*  
 7 *Litigation – Fourth* (2004) (the “*Manual*”);

8           NOW, THEREFORE, THE COURT ORDERS as follows:

9           **I. CONSOLIDATION OF THE RELATED ACTIONS**

10          1.       The above-captioned Overtime Actions now pending are hereby  
  11 consolidated pursuant to Fed. R. Civ. P. 42(a) (“Consolidated Action”). They shall  
  12 be referred to collectively as *In Re AXA Overtime Litigation*, Master File No.  
  13 06-04291. If any party believes at any time that any other case should be  
  14 consolidated with this Consolidated Action, that case should be brought to the  
  15 attention of the Court for a ruling on consolidation.

16           **II. CAPTION OF CASES**

17          2.       Every pleading filed in the Consolidated Action shall bear the  
  18 following caption:

19                   **UNITED STATES DISTRICT COURT**  
 20                   **NORTHERN DISTRICT OF CALIFORNIA**  
 21                   **SAN FRANCISCO DIVISION**

22  
 23          IN RE AXA WAGE AND HOUR      }     Case No. C 06 04291-JSW  
 24          LITIGATION                        }     Hon. Jeffrey S. White  
 25          \_\_\_\_\_  
 26          // /  
 27          // /  
 28

1                   **III. MASTER DOCKET**

2         3. A Master Docket is hereby established for the Consolidated Action,  
3 including actions subsequently consolidated herein pursuant to this Order. Entries  
4 in said Master Docket shall be applicable to the Consolidated Action, and entries  
5 shall be made therein in accordance with the regular procedures of the Clerk of  
6 this Court, except as modified by this Order.

7                   **IV. MASTER FILE AND SEPARATE ACTION FILES**

8         4. A Master File is hereby established for the consolidated proceedings  
9 in the Consolidated Action. The Master File shall be Civil Action No.  
10 06-04291-JSW. The original of this Order shall be filed by the Clerk in the Master  
11 File herein established. The Clerk shall maintain a separate file for each of the  
12 Consolidated Actions and filings shall be made in accordance with the regular  
13 procedures of the Clerk of this Court, except as modified by this Order. The Clerk  
14 shall file a copy of this Order in each such separate file.

15                   **V. NEWLY FILED OR TRANSFERRED ACTIONS**

16         5. When a case that arises out of the same operative facts as the  
17 Consolidated Action is hereinafter filed in or transferred to this Court, it shall be  
18 consolidated with these actions as provided in Section I above, and the Clerk of  
19 the Court shall:

- 20                   (a) File a copy of this Order in the separate file for such action;  
21                   (b) Mail a copy of this Order to the attorneys for the plaintiff(s) in  
22 the newly- filed or transferred case and to any new defendant(s) in the newly-filed  
23 or transferred case; and  
24                   (c) Make the appropriate entry in the Master Docket.

25         6. This Court requests the assistance of counsel in calling to the  
26 attention of the Clerk of this Court the filing or transfer of any case that might  
27 properly be consolidated as part of this litigation.

1                   **VI. APPLICATION OF THIS ORDER TO SUBSEQUENT CASES**

2                 7. This Order shall apply to each class action assigned to the  
 3 undersigned claims similar to those set forth in these actions and brought on  
 4 behalf of employees of AXA Financial, Inc. and its related entities who allege that  
 5 Defendants failed to pay them overtime compensation. This Order shall apply to  
 6 each such case which is subsequently filed in or transferred to this Court, and  
 7 which is assigned to the undersigned, unless a party objecting to the consolidation  
 8 of that case, or to any other provision of this Order, serves an application for relief  
 9 from this Order or from any of its provisions within ten (10) days after the date on  
 10 which the Clerk mails a copy of this Order to the counsel of that party. The  
 11 provisions of this Order shall apply to such action pending the Court's ruling on  
 12 the application.

13                 8. Unless a plaintiff in a subsequently filed or transferred case is  
 14 permitted by the Court to use a separate complaint, Defendants shall not be  
 15 required to answer, plead, or otherwise move with respect to that complaint. If a  
 16 plaintiff in any such case is permitted to use a separate complaint, each Defendant  
 17 shall have twenty (20) days from the date the Court grants such permission within  
 18 which to answer, plead, or otherwise move with respect to that complaint.

19                   **VII. ORGANIZATION OF COUNSEL**

20                 9. The Court appoints the following interim Co-Lead Class Counsel for  
 21 the Consolidated Action pursuant to Rule 23(g)(2)(A) of the Federal Rules of  
 22 Civil Procedure:

23                 As Co-Lead Counsel for the Class:

24                   **SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP**  
 25                   280 King of Prussia Road  
                     Radnor, PA 19087  
                     Telephone: (610) 667-7706  
                     Facsimile: (610) 667-7056

26                   &

1           2125 Oak Grove Road, Suite 120  
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5           **COTCHETT, PITRE & McCARTHY**  
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7           840 Malcolm Road, Suite 200  
8           Burlingame, CA 94010  
9           Telephone: (650) 697-6000  
10          Facsimile: (650) 697-0577

11          10. Co-Lead Class Counsel in the Consolidated Action shall have  
12          authority over the following matters on behalf of all plaintiffs in those respective  
13          actions: (a) convening meetings of counsel working for the Class; (b) initiating,  
14          responding to, scheduling, briefing, and arguing of all motions; (c) determining  
15          the scope, order, and conduct of all discovery proceedings; (d) assigning such  
16          work assignments to other counsel as they may deem appropriate; (e) retaining  
17          experts; (f) designating which attorneys appear at the hearings and conferences  
18          with the Court; (g) conducting settlement negotiations with defendants; and (h)  
19          other matters concerning the prosecution of or resolution of their respective cases.

20          11. All Plaintiffs' counsel shall keep contemporaneous time and expense  
21          records, and shall provide such records upon request to Co-Lead Class Counsel.

22          12. Co-Lead Class Counsel shall have authority to communicate with  
23          Defendants' counsel and the Court on behalf of the Class. Defendants' counsel  
24          may rely on all agreements made with Co-Lead Class Counsel, and such  
25          agreements shall be binding.

26          13. Co-Lead Class Counsel in the Consolidated Action is also charged  
27          with administrative matters such as receiving and distributing pleadings, notices,  
28          orders, motions and briefs, and advising parties of developments in the case.  
29          ///  
30          ///

## **VIII. COORDINATION**

2        14. Co-Lead Class Counsel shall coordinate activities to avoid  
3 duplication and inefficiency in the filing, serving and/or implementation of  
4 pleadings, other court papers, discovery papers, and discovery practice.

## **IX. SCOPE OF ORDER**

6        15. The terms of this Order shall not have the effect of making any  
7 person, firm or entity a party to any action in which he, she or it has not been  
8 named, served or added as such in accordance with the Federal Rules of Civil  
9 Procedure. The terms of this Order and the consolidation ordered herein shall not  
10 constitute a waiver by any party of any claims in or defenses to any action.

DATED: October 5, 2007 KERR & WAGSTAFFE LLP

By: /s/ Adrian J. Sawyer  
Adrian J. Sawyer  
Attorneys for Defendants

15 DATED: October 5, 2007 SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP

By: /s/ Gerald D. Wells, III  
Gerald D. Wells, III  
Counsel for Plaintiff PAUL MEOLA

DATED: October 5, 2007 INITIATIVE LEGAL GROUP LLP

By: /s/ Joseph Cho  
Joseph Cho (198844)  
Counsel for Plaintiffs CARLTON LENNON  
and JAMES THOMPSON

24 DATED: October 5, 2007 CARLSON LYNCH

By: /s/ Gary F. Lynch  
Gary F. Lynch  
Counsel for Plaintiff ANTHONY BOLEA

1 DATED: October 5, 2007 COTCHETT, PITRE & McCARTHY  
2  
3 By: /s/ Niall P. McCarthy  
Niall P. McCarthy  
4 Counsel for Plaintiff HARKANT DHRUV  
5  
6

7 SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.  
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10 Hon. Jeffrey S. White  
11 United States District Court  
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